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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,750	07/17/2003	Darin W. Buchtel	END919990078US4	1802
30400 7590 12/03/2007 HESLIN ROTHENBERG FARLEY & MESITI P.C. 5 COLUMBIA CIRCLE ALBANY, NY 12203			EXAMINER MCCORMICK, GABRIELLE A	
			ART UNIT 3629	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/621,750

Applicant(s)

BUCHTEL ET AL.

Examiner

Gabrielle McCormick

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 7/17/2003
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Status of Claims*

1. This action is in reply to the application filed on July 17, 2003.
2. Claims 1-22 are currently pending and have been examined.

### *Information Disclosure Statement*

3. The Information Disclosure Statement filed on July 17, 2003 has been considered. An initialed copy of the Form 1449 is enclosed herewith.

### *Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kotter ("leading Change: Why Transformation Efforts Fail". Harvard Business Review. Reprint 95205, March-April 1995, pp. 59-67) in view of Attenello ("Re-engineering to achieve breakthrough results". TMA Journal. Atlanta: Mar/Apr 1995. Vol. 15, Iss. 2; pg. 6).
6. **Claims 1, 2, 3, 4, 5:** Kotter discloses a method for improving the productivity of an organization with member, i.e. employees, through change. Change demands leadership (pg. 60; para. 4) and before any change, i.e. improvement in productivity, may occur the head of the organization must be an active supporter (pg. 62; para. 3). Customer satisfaction surveys can be used as a means of creating a sense of urgency (provides the customer perspective) (pg. 60; para. 8). Next a

vision is created to help direct the change, i.e. characteristics are determined that represent requirements of the employees to improve productivity and from there, a strategy (action plan) is developed. (pg. 61 (3) and 63; para. 2). The characteristics are defined in recognizable behavioral terms (pg. 61 (4), 64; para. 1 and 67; para. 3). Hence, the characteristics of the vision are not already present in the organization. In implementing change, one must change systems, structures or behaviors that seriously undermine the vision, thus changing systems, structures and behaviors that do not fit the vision. Consequently, the present characteristics of the organization that are inconsistent with the required characteristics (vision) are identified. Action plans (strategies) are then created for changing the organization to implement the vision, which includes the required characteristics. The action plans diminish the inconsistent present characteristics (items that do not fit the vision) (pg. 61). Kotter describes the importance of executives needing to "walk the talk" and how "Nothing undermines change more than behavior by important individuals that is inconsistent with their words." (pg. 64; para. 3 and 4). Clearly, Kotter has delineated the importance of the leadership role in fostering improvement. Kotter links successful change to new behaviors being rooted in social norms and shared values with a resultant change in corporate culture. (pg. 67; para. 2 and 3). Kotter discloses transformation efforts such as a "cultural change project in the sales force" (pg. 63; para. 4). Inherent in a sales force are senior sales leaders and managers.

7. Kotter does not disclose validating the characteristics and action plan with a focus group.
8. Attenello discloses a model for successful re-engineering. Teams of employees are formed to evaluate current strengths and weaknesses and identify opportunities for improvement, hence, the teams validate the required characteristics of the organization and assist in creating the action plans to implement change. Consequently, the action plans can be considered validated by the employees (pg. 1; para. 6, 7 and 9; pg. 2; para. 1 and 3). Further, senior management conducts "town meetings" in which their endorsement of the re-engineering is communicated. (pg. 3; para. 5). It would have been obvious at the time of the invention to have a team of employees, including managers, (i.e., focus group) validate the changes that are to occur in an organization.

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By having employee buy-in and input regarding prospective changes, employees feel a greater sense of shareholder value and are more receptive to implementing the changes.

9. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included validating plans with employees, as disclosed by Attenello, in the system disclosed by Kotter, for the motivation of smoothing the implementation and therefore increasing the likelihood of a successful transition.

10. Claims 6-7 and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ryan ("Avoid hit-or-miss hiring". HRMagazine; Alexandria; Nov. 1998) in view of Kotter ("leading Change: Why Transformation Efforts Fail". Harvard Business Review. Reprint 95205, March-April 1995, pp. 59-67).

11. Claims 6-7 and 9-10: Ryan discloses a systematic approach to making successful hiring decisions. Management creates a job description to reflect the essential duties of the position, the conditions under which the duties are carried out and any special qualifications needed to successfully perform those duties. (pg. 3; para. 9). The job elements include certain behavioral characteristics; consequently, management identifies characteristics in recognizable behavioral terms that are needed in a member of an organization. (pg. 3; para. 12). A profile of the ideal candidate is created and shared with all persons involved in reviewing applications, and resumes or conducting interviews. (pg. 3; para. 10). Consequently, the training recruiters are informed about the characteristics. During the interview, the qualities or abilities, i.e. characteristics that are important for that particular job are described to the applicant. (pg. 3; para. 12). The hiring manager receives a description of education and work experience relating to the characteristics, i.e. the applicant submits a resume. (pg. 4; para. 1). The hiring manager then assesses a degree of match between the applicant and his resume and the information relating to the job position, i.e. characteristics. (pg. 4; para. 3-5: PATs are administered; para. 7; resumes compared against job needs). It is obvious that in finding evidence in a given candidate of the certain behavioral characteristics required for the job (Ryan, pg. 3; para. 12) that this information would be used in

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- assessing a degree of match as part of the hiring process. If the applicant has a high degree of match to meet the job position, he is hired. (pg. 5; para. 2).
12. Ryan does not disclose obtaining cultural characteristics for a sales or service organization expressed in behavioral terms using customer research and a leader to define the characteristics.
  13. Kotter however discloses a method for improving the productivity of an organization with member, i.e. employees, through change. Customer satisfaction surveys can be used as a means of creating a sense of urgency (provides the customer perspective) (pg. 60; para. 8). Next a vision is created to help direct the change, i.e. characteristics are determined that represent requirements of the employees to improve productivity and from there, a strategy (action plan) is developed. (pg. 61 (3) and 63; para. 2). The characteristics are defined in recognizable behavioral terms (pg. 61 (4), 64; para. 1 and 67; para. 3). Kotter describes the importance of executives needing to "walk the talk" and how "Nothing undermines change more than behavior by important individuals that is inconsistent with their words." (pg. 64; para. 3 and 4). Clearly, Kotter has delineated the importance of the leadership role in communicating improvement vision. Kotter discloses transformation efforts such as a "cultural change project in the sales force" (pg. 63; para. 4).
  14. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included using a leader to define characteristics of a sales organization identified through customer research with Ryan's systematic approach to hiring decisions because without understanding the true needs of an organization (as defined by the customer input and the leader's translation of the customer input into organizational output), the "systematic approach in the hiring process" (Ryan; pg. 5; para. 3) will only be as effective as the job needs and behaviors identified. The goal of the hiring process is to find the best people available that will contribute to the well being of the organization, whether it be a sales or service organization.

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15. **Claim 8** is rejected under 35 U.S.C. 103(a) as being unpatentable over Ryan ("Avoid hit-or-miss hiring". HRMagazine; Alexandria; Nov. 1998) in view of Kotter ("leading Change: Why Transformation Efforts Fail". Harvard Business Review. Reprint 95205, March-April 1995, pp. 59-67) in view of Attenello ("Re-engineering to achieve breakthrough results". TMA Journal. Atlanta: Mar/Apr 1995. Vol. 15, Iss. 2; pg. 6).
16. **Claim 8:** Ryan in view of Kotter does not disclose validating the action plan with a focus group.
17. Attenello discloses a model for successful re-engineering. Teams of employees are formed to evaluate current strengths and weaknesses and identify opportunities for improvement, hence, the teams validate the required characteristics of the organization and assist in creating the action plans to implement change. Consequently, the action plans can be considered validated by the employees (pg. 1; para. 6, 7 and 9; pg. 2; para. 1 and 3). Further, senior management conducts "town meetings" in which their endorsement of the re-engineering is communicated. (pg. 3; para. 5). It would have been obvious at the time of the invention to have a team of employees, including managers, (i.e., focus group) validate the changes that are to occur in an organization. By having employee buy-in and input regarding prospective changes, employees feel a greater sense of shareholder value and are more receptive to implementing the changes.
18. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included validating plans with employees, as disclosed by Attenello, in the system disclosed by Kotter, for the motivation of smoothing the implementation and therefore increasing the likelihood of a successful transition and ascertaining whether the implementation has been effective in producing the targeted results.

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19. **Claims 11 and 12** are rejected under 35 U.S.C. 103(a) as being unpatentable over Ryan ("Avoid hit-or-miss hiring". HRMagazine; Alexandria; Nov. 1998) in view of Kotter ("leading Change: Why Transformation Efforts Fail". Harvard Business Review. Reprint 95205, March-April 1995, pp. 59-67) in view of Herman ("Stability is watchword for effective workforce". HR Focus; New York: June 1999).
20. **Claim 11:** Ryan in view of Kotter discloses the method of claim 6. Ryan does not disclose hiring targets.
21. Herman, however, discloses building a stable, competent, high-performing workforce using hiring targets. (pg. 2; para. 1: "leaders can plan and project how many people will be needed").
22. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included hiring targets, as disclosed by Herman, in the system disclosed by Ryan, for the motivation of fulfilling the optimal design and structure in order for the organization to accomplish its desired results. (Herman; pg. 2; para. 1).
23. **Claim 12:** Ryan does not disclose training.
24. Herman, however, discloses orientation programs for a new employee to teach the employee about their employer, including corporate organization and how to get things done. (pg. 3; para. 3).
25. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included training, as disclosed by Herman, in the system disclosed by Ryan, for the motivation of creating a bond between the employee and the employer that helps "hold the employee emotionally to the employer for years to come." (Herman; pg. 3; para. 2). Training an employee about the cultural characteristics will aid the employee in assimilating into the organization where he/she can then ramp up to be a fully productive member of the organization. By delineating what is expected, an employee stands a greater likelihood of meeting those expectations, which benefits both the employee and the employer.



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26. **Claims 13 and 14** are rejected under 35 U.S.C. 103(a) as being unpatentable over Ryan ("Avoid hit-or-miss hiring". HRMagazine; Alexandria; Nov. 1998) in view of Kotter ("leading Change: Why Transformation Efforts Fail". Harvard Business Review. Reprint 95205, March-April 1995, pp. 59-67) in view of Herman ("Stability is watchword for effective workforce". HR Focus; New York: June 1999) in further view of Laurie ("Gift of knowledge". Franchising World. Washington: Sep/Oct 1999. Vol. 31, Iss. 5; pg. 35).
27. **Claims 13 and 14:** Ryan does not disclose training solutions operations training classes.
28. Laurie discloses the ExecuTrain franchise that delivers "extensive training on the latest business software...as well as technical, customized and business skills training." (pg. 1; para.3: business software and technical skills training would encompass distributed, e-business and enterprise services). New Horizon offers a variety of computer related courses (pg. 2; para. 8) and the Sandler Sales Institute specializes in sales, management and customer-service training. (pg. 3; para. 8).
29. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included specific training curriculum, as disclosed by Laurie, in the system disclosed by Ryan, for the motivation of providing training and education to aid any business in remaining competitive through the skills and ability of its workforce. American businesses understand that training is an investment in people that not only pays for itself, but brings a sizable return. (Laurie; pg. 1; para. 1).
30. **Claims 15-22** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kotter ("leading Change: Why Transformation Efforts Fail". Harvard Business Review. Reprint 95205, March-April 1995, pp. 59-67) in view of Attenello ("Re-engineering to achieve breakthrough results". TMA Journal. Atlanta: Mar/Apr 1995. Vol. 15, Iss. 2; pg. 6) in view of Robbins (Organizational Behavior. Prentice Hall, Upper Saddle River, NJ 1998, pp. 595-616).
31. **Claims 15, 16, 17, 18, 19, 20, 21 and 22:** Kotter discloses a method for improving the productivity of an organization with member, i.e. employees, through change. Change demands

leadership (pg. 60; para. 4) and before any change, i.e. improvement in productivity, may occur the head of the organization must be an active supporter (pg. 62; para. 3). Customer satisfaction surveys can be used as a means of creating a sense of urgency (provides the customer perspective) (pg. 60; para. 8). Next a vision is created to help direct the change, i.e. characteristics are determined that represent requirements of the employees to improve productivity and from there, a strategy (action plan) is developed. (pg. 61 (3) and 63; para. 2). The characteristics are defined in recognizable behavioral terms (pg. 61 (4), 64; para. 1 and 67; para. 3). Hence, the characteristics of the vision are not already present in the organization. In implementing change, one must change systems, structures or behaviors that seriously undermine the vision, thus changing systems, structures and behaviors that do not fit the vision. Consequently, the present characteristics of the organization that are inconsistent with the required characteristics (vision) are identified. Action plans (strategies) are then created for changing the organization to implement the vision, which includes the required characteristics. The action plans diminish the inconsistent present characteristics (items that do not fit the vision) (pg. 61). Kotter describes the importance of executives needing to "walk the talk" and how "Nothing undermines change more than behavior by important individuals that is inconsistent with their words." (pg. 64; para. 3 and 4). Clearly, Kotter has delineated the importance of the leadership role in fostering improvement. Particularly, Kotter links successful change to new behaviors being rooted in social norms and shared values with a resultant change in corporate culture. (pg. 67; para. 2 and 3). Kotter's "Powerful Guiding Coalition" is created prior to creating a vision and developing strategies (pg. 61; (2 and 3) by helping "develop a shared assessment of their company's problems and opportunities" (pg. 62; para. 6). It is obvious that shared norms would be implemented among the leaders as much as several months prior to rolling out an action plan across an organization. This would provide the leaders a chance to effectively conceptualize the changes that need to take place and to build consensus. Kotter discloses transformation efforts such as a "cultural change project in the sales force" (pg. 63; para. 4).

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32. Kotter does not disclose validating the action plan with a focus group or measuring progress in the implementation.
33. Attenello discloses a model for successful re-engineering. Teams of employees are formed to evaluate current strengths and weaknesses and identify opportunities for improvement, hence, the teams validate the required characteristics of the organization and assist in creating the action plans to implement change. Consequently, the action plans can be considered validated by the employees (pg. 1; para. 6, 7 and 9; pg. 2; para. 1 and 3). Further, senior management conducts "town meetings" in which their endorsement of the re-engineering is communicated. (pg. 3; para. 5). It would have been obvious at the time of the invention to have a team of employees, including managers, (i.e., focus group) validate the changes that are to occur in an organization. By having employee buy-in and input regarding prospective changes, employees feel a greater sense of shareholder value and are more receptive to implementing the changes. Attenello also discloses evaluating results, including measuring "whether the changes that have been introduced are producing the intended results." (pg. 2; para. 9).
34. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included validating plans with employees and measuring results, as disclosed by Attenello, in the system disclosed by Kotter, for the motivation of smoothing the implementation and therefore increasing the likelihood of a successful transition and ascertaining whether the implementation has been effective in producing the targeted results.
35. Robbins discloses creating shared executive norms for the leaders and senior leaders in behavioral terms (pg. 606; para. 2). It is obvious to have the norms be compatible with characteristics or goals of an organization. By having the norms compatible with characteristics, the organization's goals are more likely to be achieved than with conflicting norms and characteristics. It is also obvious to implement action plans to implement the executive norms and to add the executive norms to the characteristics for the members. If no plans are implemented, then change cannot occur.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gabrielle McCormick whose telephone number is 571-270-1828. The examiner can normally be reached on Monday - Thursday (6:00- 4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Gabrielle McCormick  
Patent Examiner  
Art Unit 3629

